

103^D CONGRESS
2^D SESSION

S. 2105

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, MAY 2), 1994

Mrs. HUTCHISON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Illegal Immigration
5 Control Act of 1994”.

1 SEC. 2. TABLE OF CONTENTS.

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—INTERDICTION

- Sec. 101. Physical barriers.
- Sec. 102. Border patrol agents.
- Sec. 103. Interior repatriation program.
- Sec. 104. Detention facilities.
- Sec. 105. Notice to service of port of entry arrivals.

TITLE II—ALIEN SMUGGLING

- Sec. 201. Expanded forfeiture for smuggling or harboring illegal aliens.
- Sec. 202. Including alien smuggling as a racketeering activity for purposes of racketeering influenced and corrupt organizations (RICO) enforcement authority.
- Sec. 203. Enhanced penalties for alien smuggling and for employers who knowingly employ smuggled aliens.
- Sec. 204. Wiretap authority for alien smuggling investigations.

TITLE III—INS INVESTIGATORS

- Sec. 301. Immigration and Naturalization Service investigators.

TITLE IV—GOVERNMENT BENEFITS

- Sec. 401. Prohibition of benefits for certain categories of aliens.
- Sec. 402. Unemployment benefits.
- Sec. 403. Housing benefits.
- Sec. 404. Save system.
- Sec. 405. Limitation on Federal financial assistance to localities that refuse to cooperate in the arrest and deportation of unlawful aliens.
- Sec. 406. Uniform vital statistics.

TITLE V—CRIMINAL ALIENS

- Sec. 501. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 502. Expansion in definition of “aggravated felony”.
- Sec. 503. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 504. Judicial deportation.
- Sec. 505. Restricting defenses to deportation for certain criminal aliens.
- Sec. 506. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 507. Miscellaneous and technical changes.
- Sec. 508. Criminal alien tracking center.
- Sec. 509. Prisoner transfer treaty study.
- Sec. 510. Expediting criminal alien deportation and exclusion.
- Sec. 511. Incarceration of or payment for criminal aliens by the Federal Government.

TITLE VI—TERRORIST ALIENS

- Sec. 601. Removal of alien terrorists.
- Sec. 602. Membership in a terrorist organization as a basis for exclusion from the United States under the Immigration and Nationality Act.

TITLE VII—INSPECTIONS

- Sec. 701. Preinspection at foreign airports.
- Sec. 702. Training of airline personnel in detection of fraudulent documents.
- Sec. 703. Passport and visa offenses penalties improvement.

TITLE VIII—ASYLUM

- Sec. 801. Inspection and exclusion by immigration officers.
- Sec. 802. Asylum.
- Sec. 803. Failure to appear for provisional asylum hearing; judicial review.
- Sec. 804. Conforming amendments.
- Sec. 805. Effective dates.

TITLE IX—FUNDING

- Sec. 901. Reduction in overhead costs incurred in federally sponsored research.

1 **TITLE I—INTERDICTION**

2 **SEC. 101. PHYSICAL BARRIERS.**

3 The Attorney General, in consultation with the Com-
 4 missioner of the Immigration and Naturalization Service,
 5 shall take action to install additional physical barriers at
 6 the United States border to deter unauthorized crossings
 7 in areas of high illegal entry into the United States. Such
 8 additional barriers shall include barriers similar to those
 9 in use in the San Diego, California, vicinity.

10 **SEC. 102. BORDER PATROL AGENTS.**

11 In addition to such amounts as are otherwise author-
 12 ized to be appropriated, there is authorized to be appro-
 13 priated for each of the fiscal years 1995, 1996, 1997,
 14 1998, and 1999 for salaries and expenses of the Border
 15 Patrol such amounts as may be necessary to provide for
 16 an increase in the number of agents of the Border Patrol

1 by 6,000 full-time equivalent agent positions (and nec-
2 essary support personnel positions) beyond the number of
3 such positions authorized for the Border Patrol as of Octo-
4 ber 1, 1993.

5 **SEC. 103. INTERIOR REPATRIATION PROGRAM.**

6 Not later than 180 days after the date of enactment
7 of this Act, the Attorney General and the Commissioner
8 of the Immigration and Naturalization Service shall de-
9 velop and implement a program in which aliens who pre-
10 viously have illegally entered the United States not less
11 than 3 times and are deported or returned to a country
12 contiguous to the United States will be returned to loca-
13 tions not less than 500 kilometers from that country's bor-
14 der with the United States.

15 **SEC. 104. DETENTION FACILITIES.**

16 (a) BORDER DETENTION FACILITIES.—Not later
17 than 180 days after the date of enactment of this Act,
18 the Attorney General and the Commissioner of the Immi-
19 gration and Naturalization Service shall take appropriate
20 action to increase the capability of the Immigration and
21 Naturalization Service to detain individuals who have ille-
22 gally entered the United States at a border area.

23 (b) TRANSFER OF CLOSED MILITARY BASES FOR
24 FEDERAL ILLEGAL ALIEN INCARCERATION FACILI-
25 TIES.—

1 (1) PRIORITY AVAILABILITY TO DEPARTMENT
2 OF JUSTICE.—Notwithstanding any other provision
3 of law, a military installation or facility of the De-
4 partment of Defense to be closed under a base clo-
5 sure law may be made available, as determined by
6 the Attorney General, to the Bureau of Prisons of
7 the Department of Justice for use as a facility for
8 the incarceration of aliens who are subject to exclu-
9 sion or deportation from the United States.

10 (2) DEFINITION.—For purposes of this sub-
11 section, the term “base closure law” means each of
12 the following:

13 (A) The Defense Base Closure and Re-
14 alignment Act of 1990 (part A of title XXIX of
15 Public Law 101–510; 10 U.S.C. 2687 note).

16 (B) Title II of the Defense Authorization
17 Amendments and Base Closure and Realign-
18 ment Act (Public Law 100–526; 10 U.S.C.
19 2687 note).

20 (C) Section 2687 of title 10, United States
21 Code.

22 (D) Any other similar law enacted after
23 the date of the enactment of this Act.

1 **SEC. 105. NOTICE TO SERVICE OF PORT OF ENTRY ARRIV-**
 2 **ALS.**

3 The Attorney General is authorized to require, by
 4 regulation, not less than 24 hour advance notice to the
 5 Immigration and Naturalization Service of the intention
 6 of any vessel to arrive at any port of entry.

7 **TITLE II—ALIEN SMUGGLING**

8 **SEC. 201. EXPANDED FORFEITURE FOR SMUGGLING OR**
 9 **HARBORING ILLEGAL ALIENS.**

10 (a) IN GENERAL.—Paragraph (1) of section 274(b)
 11 of the Immigration and Nationality Act (8 U.S.C.
 12 1324(b)) is amended to read as follows:

13 “(1)(A) Except as provided in subparagraph (B), the
 14 following property shall be subject to seizure and forfeit-
 15 ure:

16 “(i) Any conveyance, including any vessel, vehi-
 17 cle, or aircraft, which has been or is being used in
 18 the commission of a violation of subsection (a).

19 “(ii) Any property, real or personal, which—

20 “(I) constitutes, or is derived from or
 21 traceable to, the proceeds obtained directly or
 22 indirectly from the commission of a violation of
 23 subsection (a), or

24 “(II) is used to facilitate, or is intended to
 25 be so used in the commission of, a violation of
 26 subsection (a)(1)(A).

1 “(B)(i) No property used by any person as a common
2 carrier in the transaction of business as a common carrier
3 shall be forfeited under this section, unless the owner or
4 other person with lawful custody of the property was a
5 consenting party to or privy to the violation of subsection
6 (a) or of section 274A(a)(1) or 274A(a)(2).

7 “(ii) No property shall be forfeited under the provi-
8 sions of this section by reason of any act or omission es-
9 tablished by the owner to have been committed or omitted
10 by a person other than the owner while the property was
11 unlawfully in the possession of a person other than the
12 owner in violation of the criminal laws of the United
13 States or of any State.

14 “(iii) No property shall be forfeited under the provi-
15 sions of this section to the extent of an interest of the
16 owner, by reason of any act or omission established by
17 the owner to have been committed or omitted without the
18 knowledge, consent, or willful disregard of the owner, un-
19 less the act or omission was committed or omitted by an
20 employee or agent of the owner or other person with lawful
21 custody of the property with the intent of furthering the
22 business interests of, or to confer any other benefit upon,
23 the owner or other person with lawful custody of the prop-
24 erty.”.

1 (b) CONFORMING AMENDMENTS.—Section 274(b) of
 2 such Act (8 U.S.C. 1324(b)) is amended—

3 (1) in paragraph (2)—

4 (A) by striking “conveyance” and inserting
 5 “property” each place it appears, and

6 (B) by striking “is being used in” and in-
 7 serting “is being used in, is facilitating, has fa-
 8 cilitated, is facilitating or was intended to facili-
 9 tate”; and

10 (2) in paragraphs (4) and (5), by striking “a
 11 conveyance”, “any conveyance”, and “conveyance”
 12 and inserting “property” each place it appears.

13 **SEC. 202. INCLUDING ALIEN SMUGGLING AS A RACKETEER-**
 14 **ING ACTIVITY FOR PURPOSES OF RACK-**
 15 **ETEERING INFLUENCED AND CORRUPT OR-**
 16 **GANIZATIONS (RICO) ENFORCEMENT AU-**
 17 **THORITY.**

18 Section 1961(1) of title 18, United States Code, is
 19 amended—

20 (1) by striking “or” before “(E) any act”, and

21 (2) by inserting before the period at the end the
 22 following: “, or (F) any act which is indictable under
 23 section 274(a)(1) of the Immigration and National-
 24 ity Act (relating to alien smuggling)”.

1 **SEC. 203. ENHANCED PENALTIES FOR CERTAIN ALIEN**
 2 **SMUGGLING AND FOR EMPLOYERS WHO**
 3 **KNOWINGLY EMPLOY SMUGGLED ALIENS.**

4 Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amend-
 5 ed—

6 (1) by striking “or” at the end of subparagraph
 7 (C),

8 (2) by striking the comma at the end of sub-
 9 paragraph (D) and inserting “; or”,

10 (3) by inserting after subparagraph (D) the fol-
 11 lowing:

12 “(E) contracts or agrees with another party for
 13 that party to provide, for employment by the person
 14 or another, an alien who is not authorized to be em-
 15 ployed in the United States, knowing that such
 16 party intends to cause such alien to be brought into
 17 the United States in violation of the laws of the
 18 United States,” and

19 (4) by striking “five years” and inserting “ten
 20 years”.

21 **SEC. 204. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
 22 **VESTIGATIONS.**

23 Section 2516(1) of title 18, United State Code, is
 24 amended—

25 (1) in paragraph (c) by inserting after “weap-
 26 ons),” the following: “or a felony violation of section

1 1028 (relating to production of false identification
2 documentation), section 1542 (relating to false
3 statements in passport applications), section 1546
4 (relating to fraud and misuse of visas, permits, and
5 other documents),”;

6 (2) by striking out “or” after paragraph (l) and
7 redesignating paragraphs (m), (n), and (o) as para-
8 graphs (n), (o), and (p), respectively; and

9 (3) by inserting after paragraph (l) the follow-
10 ing new paragraph:

11 “(m) a violation of section 274 of the Immigration
12 and Nationality Act (8 U.S.C. 1324) (relating to alien
13 smuggling), of section 277 of the Immigration and Nation-
14 ality Act (8 U.S.C. 1327) (relating to the smuggling of
15 aliens convicted of aggravated felonies or of aliens subject
16 to exclusion on grounds of national security), or of section
17 278 of the Immigration and Nationality Act (8 U.S.C.
18 1328) (relating to smuggling of aliens for the purpose of
19 prostitution or other immoral purpose);”.

20 **TITLE III—INS INVESTIGATORS**

21 **SEC. 301. IMMIGRATION AND NATURALIZATION SERVICE** 22 **INVESTIGATORS.**

23 In addition to such amounts as are otherwise author-
24 ized to be appropriated, there is authorized to be appro-
25 priated for each of the fiscal years 1995, 1996, 1997,

1 1998, and 1999 for salaries and expenses of the Immigra-
2 tion and Naturalization Service such amounts as may be
3 necessary to provide for an increase in the number of in-
4 vestigators of the Immigration and Naturalization Service
5 by 1,000 full-time equivalent investigator positions (and
6 such support personnel as are necessary) beyond the num-
7 ber of such positions authorized as of October 1, 1993.

8 **TITLE IV—GOVERNMENT**

9 **BENEFITS**

10 **SEC. 401. PROHIBITION OF BENEFITS FOR CERTAIN CAT-**

11 **EGORIES OF ALIENS.**

12 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—Sub-
13 ject to subsection (b) and the Immigration and Nationality
14 Act, and notwithstanding any other provision of law, an
15 alien not lawfully within the United States as a permanent
16 resident, a refugee, an asylee, or a parolee is not eligible
17 for any direct Federal financial benefit or social insurance
18 benefit (whether through grant, loan, guarantee, or other-
19 wise) as such benefits are identified by the Attorney Gen-
20 eral in consultation with other appropriate heads of the
21 various departments and agencies of the Federal Govern-
22 ment.

23 (b) EMERGENCY MEDICAL CARE.—Subsection (a)
24 shall not apply with respect to the Federal reimbursement

1 of emergency medical care for aliens, as determined by the
2 Secretary of Health and Human Services by regulation.

3 **SEC. 402. UNEMPLOYMENT BENEFITS.**

4 (a) PROHIBITION.—An alien who has not been grant-
5 ed employment authorization pursuant to the Immigration
6 and Nationality Act or other Federal law shall be ineligible
7 for unemployment compensation under an unemployment
8 compensation law of a State or the United States.

9 (b) CONDITION OF ELIGIBILITY.—An alien granted
10 temporary work authorization shall be eligible only for un-
11 employment compensation under an employment com-
12 pensation law of a State or the United States that accrued
13 during such time as the alien was authorized to work.

14 **SEC. 403. HOUSING BENEFITS.**

15 (a) LIMITATION.—Notwithstanding section 401 or
16 any other provision of law, no alien who is not a perma-
17 nent resident, a refugee, an asylee, or a parolee shall be
18 eligible for benefits under the following provisions of law:

19 (1) The program of rental assistance on behalf
20 of low-income families provided under section 8 of
21 the United States Housing Act of 1937 (42 U.S.C.
22 1437f).

23 (2) The program of assistance to public housing
24 under title I of the United States Housing Act of
25 1937 (42 U.S.C. 1437 et seq.).

1 (3) The loan program under section 502 of the
2 Housing Act of 1949 (42 U.S.C. 1472).

3 (4) The program of interest reduction payments
4 pursuant to contracts entered into by the Secretary
5 of Housing and Urban Development under section
6 236 of the National Housing Act (12 U.S.C. 1715z-
7 1).

8 (5) The program of loans for rental and cooper-
9 ative housing under section 515 of the Housing Act
10 of 1949 (42 U.S.C. 1485).

11 (6) The program of rental assistance payments
12 pursuant to contracts entered into under section
13 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C.
14 1490a(a)(2)(A)).

15 (7) The program of assistance payments on be-
16 half of homeowners under section 235 of the Na-
17 tional Housing Act (12 U.S.C. 1715z).

18 (8) The program of rent supplement payments
19 on behalf of qualified tenants pursuant to contracts
20 entered into under section 101 of the Housing and
21 Urban Development Act of 1965 (12 U.S.C. 1701s).

22 (9) The loan and grant programs under section
23 504 of the Housing Act of 1949 (42 U.S.C. 1474)
24 for repairs and improvements to rural dwellings.

1 (10) The loan and assistance programs under
2 sections 514 and 516 of the Housing Act of 1949
3 (42 U.S.C. 1484, 1486) for housing for farm labor.

4 (11) The program of grants for preservation
5 and rehabilitation of housing under section 533 of
6 the Housing Act of 1949 (42 U.S.C. 1490m).

7 (12) The program of grants and loans for mu-
8 tual and self-help housing and technical assistance
9 under section 523 of the Housing Act of 1949 (42
10 U.S.C. 1490c).

11 (13) The program of site loans under section
12 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

13 (b) REGULATIONS.—Not later than January 1, 1995,
14 the Secretary of Housing and Urban Development shall
15 issue final regulations to carry out subsection (a).

16 **SEC. 404. SAVE SYSTEM.**

17 There are authorized to be appropriated for each of
18 the fiscal years 1995, 1996, 1997, 1998, and 1999 such
19 sums as may be necessary to carry out the purposes of
20 the automated SAVE system established under section
21 121 of the Immigration Reform and Control Act of 1986
22 (Public Law 99–603).

1 **SEC. 405. LIMITATION ON FEDERAL FINANCIAL ASSIST-**
2 **ANCE TO LOCALITIES THAT REFUSE TO CO-**
3 **OPERATE IN THE ARREST AND DEPORTATION**
4 **OF UNLAWFUL ALIENS.**

5 Notwithstanding any other provision of law, Federal
6 financial assistance shall be reduced by 20 percent to any
7 local government on and after such date as the Attorney
8 General certifies that the local government has an official
9 policy of refusing to cooperate with officers or employees
10 of the Department of Justice (including the Immigration
11 and Naturalization Service) with respect to the arrest and
12 deportation of aliens who are not lawfully present within
13 the United States. Such reduction in assistance is not re-
14 imburseable and shall continue for as long as the policy
15 of noncooperation remains in effect.

16 **SEC. 406. UNIFORM VITAL STATISTICS.**

17 (a) PILOT PROGRAM.—The Secretary of Health and
18 Human Services shall consult with the State agency re-
19 sponsible for registration and certification of births and
20 deaths and, within 3 years of the date of enactment of
21 this Act, shall establish a pilot program for 3 of the 5
22 States with the largest number of undocumented aliens
23 of an electronic network linking the vital statistics records
24 of such States. The network shall provide, where practical,
25 for the matching of deaths with births and shall enable
26 the confirmation of births and deaths of citizens of such

1 States, or of aliens within such States, by any Federal
 2 or State agency or official in the performance of official
 3 duties. The Secretary and participating State agencies
 4 shall institute measures to achieve uniform and accurate
 5 reporting of vital statistics into the pilot program network,
 6 to protect the integrity of the registration and certification
 7 process, and to prevent fraud against the Government and
 8 other persons through the use of false birth or death cer-
 9 tificates.

10 (b) REPORT.—Not later than 180 days after the es-
 11 tablishment of the pilot program under subsection (a), the
 12 Secretary shall issue a written report to Congress with rec-
 13 ommendations on how the pilot program could effectively
 14 be instituted as a national network for the United States.

15 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 16 are authorized to be appropriated for fiscal year 1994 and
 17 for subsequent fiscal years such sums as may be necessary
 18 to carry out this section.

19 **TITLE V—CRIMINAL ALIENS**

20 **SEC. 501. AUTHORIZING REGISTRATION OF ALIENS ON** 21 **CRIMINAL PROBATION OR CRIMINAL PA-** 22 **ROLE.**

23 Section 263(a) of the Immigration and Nationality
 24 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”
 25 and inserting “(5) aliens who are or have been on criminal

1 probation or criminal parole pursuant to the laws of the
2 United States or of any State, and (6)''.

3 **SEC. 502. EXPANSION IN DEFINITION OF “AGGRAVATED**
4 **FELONY”.**

5 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)
6 of the Immigration and Nationality Act (8 U.S.C.
7 1101(a)(43)) is amended to read as follows:

8 “(43) The term ‘aggravated felony’ means—

9 “(A) murder;

10 “(B) any illicit trafficking in any con-
11 trolled substance (as defined in section 102 of
12 the Controlled Substances Act), including any
13 drug trafficking crime as defined in section
14 924(c) of title 18, United States Code;

15 “(C) any illicit trafficking in any firearms
16 or destructive devices as defined in section 921
17 of title 18, United States Code, or in explosive
18 materials as defined in section 841(c) of title
19 18, United States Code;

20 “(D) any offense described in sections
21 1951 through 1963 of title 18, United States
22 Code;

23 “(E) any offense described in—

24 “(i) subsections (h) or (i) of section
25 842, title 18, United States Code, or sub-

1 section (d), (e), (f), (g), (h), or (i) of sec-
2 tion 844 of title 18, United States Code
3 (relating to explosive materials offenses),

4 “(ii) paragraph (1), (2), (3), (4), or
5 (5) of section 922(g), or section 922(j),
6 section 922(n), section 922(o), section
7 922(p), section 922(r), section 924(b), or
8 section 924(h) of title 18, United States
9 Code (relating to firearms offenses), or

10 “(iii) section 5861 of title 26, United
11 States Code (relating to firearms offenses);

12 “(F) any crime of violence (as defined in
13 section 16 of title 18, United States Code, not
14 including a purely political offense) for which
15 the term of imprisonment imposed (regardless
16 of any suspension of such imprisonment) is at
17 least 5 years;

18 “(G) any theft offense (including receipt of
19 stolen property) or any burglary offense, where
20 a sentence of 5 years imprisonment or more
21 may be imposed;

22 “(H) any offense described in section 875,
23 section 876, section 877, or section 1202 of
24 title 18, United States Code (relating to the de-
25 mand for or receipt of ransom);

1 “(I) any offense described in section 2251,
2 section 2251A or section 2252 of title 18,
3 United States Code (relating to child pornog-
4 raphy);

5 “(J) any offense described in section 1084
6 of title 18, United States Code, where a sen-
7 tence of 5 years imprisonment or more may be
8 imposed;

9 “(K) any offense relating to commercial
10 bribery, counterfeiting, forgery or trafficking in
11 vehicles whose identification numbers have been
12 altered, where a sentence of 5 years imprison-
13 ment or more may be imposed;

14 “(L) any offense—

15 “(i) relating to the owning, control-
16 ling, managing or supervising of a pros-
17 titution business,

18 “(ii) described in section 2421
19 through 2424 of title 18, United States
20 Code, for commercial advantage, or

21 “(iii) described in sections 1581
22 through 1585, or section 1588, of title 18,
23 United States Code (relating to peonage,
24 slavery, and involuntary servitude);

1 “(M) any offense relating to perjury or
2 subornation of perjury where a sentence of 5
3 years imprisonment or more may be imposed;

4 “(N) any offense described in—

5 “(i) section 793 (relating to gathering
6 or transmitting national defense informa-
7 tion), section 798 (relating to disclosure of
8 classified information), section 2153 (relat-
9 ing to sabotage) or section 2381 or section
10 2382 (relating to treason) of title 18,
11 United States Code, or

12 “(ii) section 421 of title 50, United
13 States Code (relating to protecting the
14 identity of undercover intelligence agents);

15 “(O) any offense—

16 “(i) involving fraud or deceit where
17 the loss to the victim or victims exceeded
18 \$200,000; or

19 “(ii) described in section 7201 of title
20 26, United States Code (relating to tax
21 evasion), where the tax loss to the Govern-
22 ment exceeds \$200,000;

23 “(P) any offense described in section
24 274(a)(1) of the Immigration and Nationality

1 Act (relating to alien smuggling) for the pur-
2 pose of commercial advantage;

3 “(Q) any violation of section 1546(a) of
4 title 18, United States Code (relating to docu-
5 ment fraud), for the purpose of commercial ad-
6 vantage; or

7 “(R) any offense relating to failing to ap-
8 pear before a court pursuant to a court order
9 to answer to or dispose of a charge of a felony,
10 where a sentence of 2 years or more may be im-
11 posed;

12 or any attempt or conspiracy to commit any such
13 act. Such term applies to offenses described in this
14 paragraph whether in violation of Federal or State
15 law and applies to such offenses in violation of the
16 laws of a foreign country for which the term of im-
17 prisonment was completed within the previous 15
18 years.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to all convictions entered before,
21 on, or after the date of enactment of this Act.

1 **SEC. 503. DEPORTATION PROCEDURES FOR CERTAIN**
 2 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
 3 **NENT RESIDENTS.**

4 (a) TECHNICAL AND CONFORMING CHANGES.—Sec-
 5 tion 242A of the Immigration and Nationality Act (8
 6 U.S.C. 1252a) is amended as follows:

7 (1) In subsection (a)—

8 (A) by striking “(a) IN GENERAL.—” and
 9 inserting “(b) DEPORTATION OF PERMANENT
 10 RESIDENT ALIENS.—(1) IN GENERAL.—”; and

11 (B) by inserting in the first sentence “per-
 12 manent resident” after “correctional facilities
 13 for”;

14 (2) In subsection (b)—

15 (A) by striking “(b) IMPLEMENTATION.—”
 16 and inserting “(2) IMPLEMENTATION.—”; and

17 (B) by striking “respect to an” and insert-
 18 ing “respect to a permanent resident”;

19 (3) By striking out subsection (c);

20 (4) In subsection (d)—

21 (A) by striking “(d) EXPEDITED PRO-
 22 CEEDINGS.—(1)” and inserting “(3) EXPE-
 23 DITED PROCEEDINGS.—(A)”;

24 (B) by inserting “permanent resident”
 25 after “in the case of any”; and

26 (C) by striking “(2)” and inserting “(B)”;

1 (5) In subsection (e)—

2 (A) by striking “(e) REVIEW.—(1)” and
3 inserting “(4) REVIEW.—(A)”;

4 (B) by striking the second sentence; and

5 (C) by striking “(2)” and inserting “(B)”;

6 (6) By inserting after the section heading the
7 following new subsection:

8 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
9 convicted of an aggravated felony shall be conclusively pre-
10 sumed to be deportable from the United States.”; and

11 (7) The heading of such section is amended to
12 read as follows:

13 “EXPEDITED DEPORTATION OF ALIENS CONVICTED OF
14 COMMITTING AGGRAVATED FELONIES”.

15 (b) ELIMINATION OF ADMINISTRATIVE HEARING FOR
16 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-
17 gration and Nationality Act (8 U.S.C. 1252a) is amended
18 by adding at the end the following:

19 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
20 MANENT RESIDENTS.—

21 “(1) Notwithstanding section 242, and subject
22 to paragraph (5), the Attorney General may issue a
23 final order of deportation against any alien described
24 in paragraph (2) whom the Attorney General deter-
25 mines to be deportable under section

1 241(a)(2)(A)(iii) (relating to conviction of an aggra-
2 vated felony).

3 “(2) An alien is described in this paragraph if
4 the alien—

5 “(A) was not lawfully admitted for perma-
6 nent residence at the time that proceedings
7 under this section commenced, or

8 “(B) had permanent resident status on a
9 conditional basis (as described in section 216)
10 at the time that proceedings under this section
11 commenced.

12 “(3) The Attorney General may delegate the
13 authority in this section to the Commissioner or to
14 any District Director of the Service.

15 “(4) No alien described in this section shall be
16 eligible for—

17 “(A) any relief from deportation that the
18 Attorney General may grant in his discretion,
19 or

20 “(B) relief under section 243(h).

21 “(5) The Attorney General may not execute any
22 order described in paragraph (1) until 14 calendar
23 days have passed from the date that such order was
24 issued, in order that the alien has an opportunity to
25 apply for judicial review under section 106.”.

1 (c) LIMITED JUDICIAL REVIEW.—Section 106 of the
2 Immigration and Nationality Act (8 U.S.C. 1105a) is
3 amended—

4 (1) in the first sentence of subsection (a), by in-
5 serting “or pursuant to section 242A” after “under
6 section 242(b)”;

7 (2) in subsection (a)(1) and subsection (a)(3),
8 by inserting “(including an alien described in section
9 242A)” after “aggravated felony”; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(d) Notwithstanding subsection (c), a petition for
13 review or for habeas corpus on behalf of an alien described
14 in section 242A(c) may only challenge whether the alien
15 is in fact an alien described in such section, and no court
16 shall have jurisdiction to review any other issue.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to all aliens against whom deporta-
19 tion proceedings are initiated after the date of enactment
20 of this Act.

21 **SEC. 504. JUDICIAL DEPORTATION.**

22 (a) JUDICIAL DEPORTATION.—Section 242A of the
23 Immigration and Nationality Act (8 U.S.C. 1252a) is
24 amended by inserting at the end the following new sub-
25 section:

1 “(d) JUDICIAL DEPORTATION.—

2 “(1) AUTHORITY.—Notwithstanding any other
3 provision of this Act, a United States district court
4 shall have jurisdiction to enter a judicial order of de-
5 portation at the time of sentencing against an alien
6 whose criminal conviction causes such alien to be de-
7 portable under section 241(a)(2)(A)(iii) (relating to
8 conviction of an aggravated felony), if such an order
9 has been requested prior to sentencing by the United
10 States Attorney with the concurrence of the Com-
11 missioner.

12 “(2) PROCEDURE.—

13 “(A) The United States Attorney shall pro-
14 vide notice of intent to request judicial deporta-
15 tion promptly after the entry in the record of
16 an adjudication of guilt or guilty plea. Such no-
17 tice shall be provided to the court, to the alien,
18 and to the alien’s counsel of record.

19 “(B) Notwithstanding section 242B, the
20 United States Attorney, with the concurrence of
21 the Commissioner, shall file at least 20 days
22 prior to the date set for sentencing a charge
23 containing factual allegations regarding the
24 alienage of the defendant and satisfaction by

1 the defendant of the definition of aggravated
2 felony.

3 “(C) If the court determines that the de-
4 fendant has presented substantial evidence to
5 establish prima facie eligibility for relief from
6 deportation under section 212(c), the Commis-
7 sioner shall provide the court with a rec-
8 ommendation and report regarding the alien’s
9 eligibility for relief under such section. The
10 court shall either grant or deny the relief
11 sought.

12 “(D)(i) The alien shall have a reasonable
13 opportunity to examine the evidence against
14 him or her, to present evidence on his or her
15 own behalf, and to cross-examine witnesses pre-
16 sented by the Government.

17 “(ii) The court, for the purposes of deter-
18 mining whether to enter an order described in
19 paragraph (1), shall only consider evidence that
20 would be admissible in proceedings conducted
21 pursuant to section 242(b).

22 “(iii) Nothing in this subsection shall limit
23 the information a court of the United States
24 may receive or consider for the purposes of im-
25 posing an appropriate sentence.

1 “(iv) The court may order the alien de-
2 ported if the Attorney General demonstrates by
3 clear and convincing evidence that the alien is
4 deportable under this Act.

5 “(3) NOTICE, APPEAL, AND EXECUTION OF JU-
6 DICIAL ORDER OF DEPORTATION.—

7 “(A)(i) A judicial order of deportation or
8 denial of such order may be appealed by either
9 party to the court of appeals for the circuit in
10 which the district court is located.

11 “(ii) Except as provided in clause (iii),
12 such appeal shall be considered consistent with
13 the requirements described in section 106.

14 “(iii) Upon execution by the defendant of
15 a valid waiver of the right to appeal the convic-
16 tion on which the order of deportation is based,
17 the expiration of the period described in section
18 106(a)(1), or the final dismissal of an appeal
19 from such conviction, the order of deportation
20 shall become final and shall be executed at the
21 end of the prison term in accordance with the
22 terms of the order.

23 “(B) As soon as is practicable after entry
24 of a judicial order of deportation, the Commis-
25 sioner shall provide the defendant with written

1 notice of the order of deportation, which shall
2 designate the defendant's country of choice for
3 deportation and any alternate country pursuant
4 to section 243(a).

5 “(4) DENIAL OF JUDICIAL ORDER.—Denial of a
6 request for a judicial order of deportation shall not
7 preclude the Attorney General from initiating depor-
8 tation proceedings pursuant to section 242 upon the
9 same ground of deportability or upon any other
10 ground of deportability provided under section
11 241(a).”.

12 (b) TECHNICAL AND CONFORMING CHANGES.—The
13 ninth sentence of section 242(b) of the Immigration and
14 Nationality Act (8 U.S.C. 1252(b)) is amended by striking
15 out “The” and inserting in lieu thereof, “Except as pro-
16 vided in section 242A(d), the”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to all aliens whose adjudication of
19 guilt or guilty plea is entered in the record after the date
20 of enactment of this Act.

21 **SEC. 505. RESTRICTING DEFENSES TO DEPORTATION FOR**
22 **CERTAIN CRIMINAL ALIENS.**

23 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
24 NENT RESIDENCE.—The last sentence of section 212(c)
25 of the Immigration and Nationality Act (8 U.S.C.

1 1182(c)) is amended by striking out “has served for such
 2 felony or felonies” and all that follows through the period
 3 and inserting in lieu thereof “has been sentenced for such
 4 felony or felonies to a term of imprisonment of at least
 5 5 years, provided that the time for appealing such convic-
 6 tion or sentence has expired and the sentence has become
 7 final.”.

8 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
 9 TATION.—Section 243(h)(2) of the Immigration and Na-
 10 tionality Act (8 U.S.C. 1253(h)(2)) is amended—

11 (1) by striking out the final sentence and in-
 12 serting in lieu thereof the following new subpara-
 13 graph:

14 “(E) the alien has been convicted of an ag-
 15 gravated felony.”; and

16 (2) by striking out the “or” at the end of sub-
 17 paragraph (C) and inserting “or” at the end of sub-
 18 paragraph (D).

19 **SEC. 506. ENHANCING PENALTIES FOR FAILING TO DE-**
 20 **PART, OR REENTERING, AFTER FINAL ORDER**
 21 **OF DEPORTATION.**

22 (a) FAILURE TO DEPART.—Section 242(e) of the Im-
 23 migration and Nationality Act (8 U.S.C. 1252(e)) is
 24 amended—

1 (1) by striking out “paragraph (2), (3), or 4
2 of” the first time it appears, and

3 (2) by striking out “shall be imprisoned not
4 more than ten years” and inserting in lieu thereof,
5 “shall be imprisoned not more than two years, or
6 shall be imprisoned not more than ten years if the
7 alien is a member of any of the classes described in
8 paragraph (2), (3), or (4) of section 241(a).”.

9 (b) REENTRY.—Section 276(b) of the Immigration
10 and Nationality Act (8 U.S.C. 1326(b)) is amended—

11 (1) in paragraph (1)—

12 (A) by inserting after “commission of” the
13 following: “three or more misdemeanors or”,
14 and

15 (B) by striking out “5” and inserting in
16 lieu thereof “10”,

17 (2) in paragraph (2), by striking out “15” and
18 inserting in lieu thereof “20”, and

19 (3) by adding at the end the following sentence:

20 “For the purposes of this subsection, the term ‘depor-
21 tation’ shall include any agreement where an alien stipu-
22 lates to deportation during a criminal trial under either
23 Federal or State law.”.

24 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
25 TATION ORDER.—Section 276 of the Immigration and Na-

1 tionality Act (8 U.S.C. 1326) is amended by inserting
2 after subsection (b) the following new subsection:

3 “(c) In any criminal proceeding under this section,
4 no alien may challenge the validity of the deportation
5 order described in subsection (a)(1) or subsection (b) un-
6 less the alien demonstrates—

7 “(1) that the alien exhausted the administrative
8 remedies (if any) that may have been available to
9 seek relief against such order,

10 “(2) that the deportation proceedings at which
11 such order was issued improperly deprived the alien
12 of the opportunity for judicial review, and

13 “(3) that the entry of such order was fun-
14 damentally unfair.”.

15 **SEC. 507. MISCELLANEOUS AND TECHNICAL CHANGES.**

16 (a) FORM OF DEPORTATION HEARINGS.—The sec-
17 ond sentence of section 242(b) of the Immigration and
18 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-
19 ing before the period the following: “; except that nothing
20 in this subsection shall preclude the Attorney General
21 from authorizing proceedings by electronic or telephonic
22 media (with or without the consent of the alien) or, where
23 waived or agreed to by the parties, in the absence of the
24 alien.”.

1 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
2 REQUIREMENTS.— No amendment made by this Act and
3 nothing in section 242(i) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1252(i)), shall be construed to create
5 any right or benefit, substantive or procedural, which is
6 legally enforceable by any party against the United States,
7 its agencies, its officers or any other person.

8 **SEC. 508. CRIMINAL ALIEN TRACKING CENTER.**

9 (a) OPERATION.—The Commissioner of Immigration
10 and Naturalization, with the cooperation of the Director
11 of the Federal Bureau of Investigation and the heads of
12 other agencies, shall, under the authority of section
13 242(a)(3)(A) of the Immigration and Nationality Act (8
14 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking
15 center.

16 (b) PURPOSE.—The criminal alien tracking center
17 shall be used to assist Federal, State, and local law en-
18 forcement agencies in identifying and locating aliens who
19 may be subject to deportation by reason of their conviction
20 of aggravated felonies.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to carry out this section
23 \$2,000,000 for fiscal year 1995 and \$5,000,000 for each
24 of the fiscal years 1996, 1997, 1998, and 1999.

1 **SEC. 509. PRISONER TRANSFER TREATY STUDY.**

2 (a) REPORT TO CONGRESS.—Not later than 180 days
3 after the date of the enactment of this Act, the Secretary
4 of State and the Attorney General shall submit to the Con-
5 gress a report that describes the use and effectiveness of
6 the Prisoner Transfer Treaty with Mexico to remove from
7 the United States aliens who have been convicted of crimes
8 in the United States.

9 (b) USE OF TREATY.—The report under subsection
10 (a) shall include the following information:

11 (1) The number of aliens convicted of a crimi-
12 nal offense in the United States since November 30,
13 1977, who would have been or are eligible for trans-
14 fer pursuant to the Treaty.

15 (2) The number of aliens described in para-
16 graph (1) who have been transferred pursuant to the
17 Treaty.

18 (3) The number of aliens described in para-
19 graph (2) who have been incarcerated in full compli-
20 ance with the Treaty.

21 (4) The number of aliens who are incarcerated
22 in a penal institution in the United States who are
23 eligible for transfer pursuant to the Treaty.

24 (5) The number of aliens described in para-
25 graph (4) who are incarcerated in State and local
26 penal institutions.

1 (c) EFFECTIVENESS OF TREATY.—The report under
2 subsection (a) shall include the recommendations of the
3 Secretary of State and the Attorney General to increase
4 the effectiveness and use of, and full compliance with, the
5 Treaty. In considering the recommendations under this
6 subsection, the Secretary and the Attorney General shall
7 consult with such State and local officials in areas dis-
8 proportionately impacted by aliens convicted of criminal
9 offenses as the Secretary and the Attorney General con-
10 sider appropriate. Such recommendations shall address
11 the following areas:

12 (1) Changes in Federal laws, regulations, and
13 policies affecting the identification, prosecution, and
14 deportation of aliens who have committed a criminal
15 offense in the United States.

16 (2) Changes in State and local laws, regula-
17 tions, and policies affecting the identification, pros-
18 ecution, and deportation of aliens who have commit-
19 ted a criminal offense in the United States.

20 (3) Changes in the Treaty that may be nec-
21 essary to increase the number of aliens convicted of
22 crimes who may be transferred pursuant to the
23 Treaty.

24 (4) Methods for preventing the unlawful re-
25 entry into the United States of aliens who have been

1 convicted of criminal offenses in the United States
2 and transferred pursuant to the Treaty.

3 (5) Any recommendations of appropriate offi-
4 cials of the Mexican Government on programs to
5 achieve the goals of, and ensure full compliance
6 with, the Treaty.

7 (6) An assessment of whether the recommenda-
8 tions under this subsection require the renegotiation
9 of the Treaty.

10 (7) The additional funds required to implement
11 each recommendation under this subsection.

12 (d) DEFINITION.—As used in this section, the term
13 “Prisoner Transfer Treaty with Mexico” or “Treaty” re-
14 fers to the Treaty Between the United States of America
15 and the United Mexican States on the Execution of Penal
16 Sentences, done at Mexico City on November 25, 1976
17 (28 U.S.T. 7399).

18 **SEC. 510. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
19 **EXCLUSION.**

20 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
21 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
22 is amended by adding at the end the following new sub-
23 paragraph:

24 “(E) CONVICTED DEFINED.—In this para-
25 graph, the term ‘convicted’ means a judge or

1 jury has found the alien guilty or the alien has
 2 entered a plea of guilty or nolo contendere,
 3 whether or not the alien appeals therefrom.”.

4 (b) DEPORTATION OF CONVICTED ALIENS.—

5 (1) IMMEDIATE DEPORTATION.—Section 242(h)
 6 of such Act (8 U.S.C. 1252(h)) is amended—

7 (A) by striking “(h) An alien” and insert-
 8 ing “(h)(1) Subject to paragraph (2), an alien”;
 9 and

10 (B) by adding at the end the following new
 11 paragraph:

12 “(2) An alien sentenced to imprisonment may be de-
 13 ported prior to the termination of such imprisonment by
 14 the release of the alien from confinement, if the Service
 15 petitions the appropriate court or other entity with author-
 16 ity concerning the alien to release the alien into the cus-
 17 tody of the Service for execution of an order of deporta-
 18 tion.”.

19 (2) PROHIBITION OF REENTRY INTO THE
 20 UNITED STATES.—Section 212(a)(2) of such Act (8
 21 U.S.C. 1182(a)(2)) is amended—

22 (A) by redesignating subparagraph (F) as
 23 subparagraph (G); and

24 (B) by inserting after subparagraph (E)
 25 the following new subparagraph:

1 “(F) ALIENS DEPORTED BEFORE SERVING
 2 MINIMUM PERIOD OF CONFINEMENT.—In addi-
 3 tion to any other period of exclusion which may
 4 apply an alien deported pursuant to section
 5 242(h)(2) is excludable during the minimum pe-
 6 riod of confinement to which the alien was sen-
 7 tenced.”.

8 (c) EXECUTION OF DEPORTATION ORDERS.—Section
 9 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
 10 ing at the end the following: “An order of deportation may
 11 not be executed until all direct appeals relating to the con-
 12 viction which is the basis of the deportation order have
 13 been exhausted.”.

14 **SEC. 511. INCARCERATION OF OR PAYMENT FOR CRIMINAL**
 15 **ALIENS BY THE FEDERAL GOVERNMENT.**

16 (a) DEFINITION.—In this section, the phrase “crimi-
 17 nal alien who has been convicted of a felony and is incar-
 18 cerated in a State or local correctional facility” means an
 19 alien who—

20 (1)(A) is in the United States in violation of the
 21 immigration laws; or

22 (B) is deportable or excludable under the Immi-
 23 gration and Nationality Act (8 U.S.C. 1101 et seq.);
 24 and

1 (2) has been convicted of a felony under State
2 or local law and incarcerated in a correctional facil-
3 ity of the State or a subdivision of the State.

4 (b) FEDERAL CUSTODY.—At the request of a State
5 or political subdivision of a State, the Attorney General
6 shall—

7 (1)(A) take custody of a criminal alien who has
8 been convicted of a felony and is incarcerated in a
9 State or local correctional facility; and

10 (B) provide for the imprisonment of the crimi-
11 nal alien in a Federal prison in accordance with the
12 sentence of the State court; or

13 (2) enter into a contractual arrangement with
14 the State or local government to compensate the
15 State or local government for incarcerating alien
16 criminals for the duration of their sentences.

17 **TITLE VI—TERRORIST ALIENS**

18 **SEC. 601. REMOVAL OF ALIEN TERRORISTS.**

19 (a) IN GENERAL.—The Immigration and Nationality
20 Act (8 U.S.C. 1101 et seq.) is amended by inserting the
21 following new section:

22 “REMOVAL OF ALIEN TERRORISTS

23 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-
24 tion—

25 “(1) the term ‘alien terrorist’ means any alien
26 described in section 241(a)(4)(B);

1 “(2) the term ‘classified information’ has the
2 same meaning as defined in section 1(a) of the Clas-
3 sified Information Procedures Act (18 U.S.C. App.
4 IV);

5 “(3) the term ‘national security’ has the same
6 meaning as defined in section 1(b) of the Classified
7 Information Procedures Act (18 U.S.C. App. IV);

8 “(4) the term ‘special court’ means the court
9 described in subsection (c) of this section; and

10 “(5) the term ‘special removal hearing’ means
11 the hearing described in subsection (e) of this sec-
12 tion.

13 “(b) APPLICATION FOR USE OF PROCEDURES.—The
14 provisions of this section shall apply whenever the Attor-
15 ney General certifies under seal to the special court that—

16 “(1) the Attorney General or Deputy Attorney
17 General has approved of the proceeding under this
18 section;

19 “(2) an alien terrorist is physically present in
20 the United States; and

21 “(3) removal of such alien terrorist by deporta-
22 tion proceedings described in sections 242, 242A, or
23 242B would pose a risk to the national security of
24 the United States because such proceedings would
25 disclose classified information.

1 “(c) SPECIAL COURT.—(1) The Chief Justice of the
2 United States shall publicly designate up to 7 judges from
3 up to 7 United States judicial districts to hear and decide
4 cases arising under this section, in a manner consistent
5 with the designation of judges described in section 103(a)
6 of the Foreign Intelligence Surveillance Act (50 U.S.C.
7 1803(a)).

8 “(2) The Chief Justice may, in the Chief Justice’s
9 discretion, designate the same judges under this section
10 as are designated pursuant to section 1803(a) of title 50,
11 United States Code.

12 “(d) INVOCATION OF SPECIAL COURT PROCE-
13 DURE.—(1) When the Attorney General makes the appli-
14 cation described in subsection (b), a single judge of the
15 special court shall consider the application in camera and
16 ex parte.

17 “(2) The judge shall invoke the procedures of sub-
18 section (e), if the judge determines that there is probable
19 cause to believe that—

20 “(A) the alien who is the subject of the applica-
21 tion has been correctly identified;

22 “(B) a deportation proceeding described in sec-
23 tions 242, 242A, or 242B would pose a risk to the
24 national security of the United States because such

1 proceedings would disclose classified information;
2 and

3 “(C) the threat posed by the alien’s physical
4 presence is immediate and involves the risk of death
5 or serious bodily harm.

6 “(e) SPECIAL REMOVAL HEARING.—(1) Except as
7 provided in paragraph (4), the special removal hearing au-
8 thorized by a showing of probable cause described in sub-
9 section (d)(2) shall be open to the public.

10 “(2) The alien shall have a right to be present at such
11 hearing and to be represented by counsel. Any alien finan-
12 cially unable to obtain counsel shall be entitled to have
13 counsel assigned to represent such alien. Counsel may be
14 appointed as described in section 3006A of title 18, United
15 States Code.

16 “(3) The alien shall have a right to introduce evi-
17 dence on his own behalf, and except as provided in para-
18 graph (4), shall have a right to cross-examine any witness
19 or request that the judge issue a subpoena for the pres-
20 ence of a named witness.

21 “(4) The judge shall authorize the introduction in
22 camera and ex parte of any item of evidence for which
23 the judge determines that public disclosure would pose a
24 risk to the national security of the United States because
25 it would disclose classified information.

1 “(5) With respect to any evidence described in para-
2 graph (4), the judge shall cause to be delivered to the alien
3 either—

4 “(A)(i) the substitution for such evidence of a
5 statement admitting relevant facts that the specific
6 evidence would tend to prove, or (ii) the substitution
7 for such evidence of a summary of the specific evi-
8 dence; or

9 “(B) if disclosure of even the substituted evi-
10 dence described in subparagraph (A) would create a
11 substantial risk of death or serious bodily harm to
12 any person, a statement informing the alien that no
13 such summary is possible.

14 “(6) If the judge determines—

15 “(A) that the substituted evidence described in
16 paragraph (4)(B) will provide the alien with sub-
17 stantially the same ability to make his defense as
18 would disclosure of the specific evidence, or

19 “(B) that disclosure of even the substituted evi-
20 dence described in paragraph (5)(A) would create a
21 substantial risk of death or serious bodily harm to
22 any person,

23 then the determination of deportation (described in sub-
24 section (f)) may be made pursuant to this section.

1 “(f) DETERMINATION OF DEPORTATION.—(1) If the
2 determination in subsection (e)(6)(A) has been made, the
3 judge shall, considering the evidence on the record as a
4 whole, require that the alien be deported if the Attorney
5 General proves, by clear and convincing evidence, that the
6 alien is subject to deportation because he is an alien as
7 described in section 241(a)(4)(B).

8 “(2) If the determination in subsection (e)(6)(B) has
9 been made, the judge shall, considering the evidence re-
10 ceived (in camera and otherwise), require that the alien
11 be deported if the Attorney General proves, by clear, con-
12 vincing, and unequivocal evidence, that the alien is subject
13 to deportation because he is an alien as described in sec-
14 tion 241(a)(4)(B).

15 “(g) APPEALS.—(1) The alien may appeal a deter-
16 mination under subsection (f) to the Court of Appeals for
17 the Federal Circuit, by filing a notice of appeal with such
18 court within 20 days of the determination under such sub-
19 section.

20 “(2)(A) The Attorney General may appeal a deter-
21 mination under subsection (d), (e), or (f) to the court of
22 appeals for the Federal Circuit, by filing a notice of appeal
23 with such court within 20 days of the determination under
24 any one of such subsections.

1 “(B) When requested by the Attorney General, the
2 entire record of the proceeding under this section shall be
3 transmitted to the court of appeals under seal. If the At-
4 torney General is appealing a determination under sub-
5 section (d) or (e), the court of appeals shall consider such
6 appeal in camera and ex parte.”.

7 (b) CONFORMING AMENDMENT.—Section 1295(a) of
8 title 28, United States Code, is amended—

9 (1) by striking “and” at the end of paragraph
10 (13);

11 (2) by striking the period at the end of para-
12 graph (14) and inserting “; and”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(15) of an appeal under section 242C(g) of the
16 Immigration and Nationality Act.”.

17 (c) CLERICAL AMENDMENT.—The table of contents
18 of the Immigration and Nationality Act is amended by in-
19 serting after the item relating to section 242B the follow-
20 ing new item:

“Sec. 242C. Removal of alien terrorists.”.

1 **SEC. 602. MEMBERSHIP IN A TERRORIST ORGANIZATION AS**
 2 **A BASIS FOR EXCLUSION FROM THE UNITED**
 3 **STATES UNDER THE IMMIGRATION AND NA-**
 4 **TIONALITY ACT.**

5 Section 212(a)(3)(B) of the Immigration and Nation-
 6 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

7 (1) in clause (i)(II) by inserting “or” at the
 8 end;

9 (2) by adding after clause (i)(II) the following:

10 “(III) is a member of an organi-
 11 zation that engages in, or has engaged
 12 in, terrorist activity or who actively
 13 supports or advocates terrorist activ-
 14 ity,”; and

15 (3) by adding after clause (iii) the following:

16 “(iv) TERRORIST ORGANIZATION DE-
 17 FINED.—As used in this Act, the term ‘ter-
 18 rorist organization’ means an organization
 19 which commits terrorist activity as deter-
 20 mined by the Attorney General, in con-
 21 sultation with the Secretary of State.”.

22 **TITLE VII—INSPECTIONS**

23 **SEC. 701. PREINSPECTION AT FOREIGN AIRPORTS.**

24 (a) IN GENERAL.—The Immigration and Nationality
 25 Act is amended by inserting after section 235 the following
 26 new section:

1 “PREINSPECTION AT FOREIGN AIRPORTS

2 “SEC. 235A. (a) ESTABLISHMENT OF
3 PREINSPECTION STATIONS.—(1) Subject to paragraph
4 (4), not later than 2 years after the date of the enactment
5 of this section, the Attorney General, in consultation with
6 the Secretary of State, shall establish and maintain
7 preinspection stations in at least 5 of the foreign airports
8 that are among the 10 foreign airports which the Attorney
9 General identifies as serving as last points of departure
10 for the greatest numbers of passengers who arrive from
11 abroad by air at ports of entry within the United States.
12 Such preinspection stations shall be in addition to any
13 preinspection stations established prior to the date of the
14 enactment of this section.

15 “(2) Not later than November 1, 1994, and each sub-
16 sequent November 1, the Attorney General shall compile
17 data identifying—

18 “(A) the foreign airports which served as last
19 points of departure for aliens who arrived by air at
20 United States ports of entry without valid docu-
21 mentation during the preceding fiscal years,

22 “(B) the number and nationality of such aliens
23 arriving from each such foreign airport, and

24 “(C) the primary routes such aliens followed
25 from their country of origin to the United States.

1 “(3) Subject to paragraph (4), not later than 4 years
2 after the date of enactment of this section, the Attorney
3 General, in consultation with the Secretary of State, shall
4 establish preinspection stations in at least 5 additional for-
5 eign airports which the Attorney General, in consultation
6 with the Secretary of State, determines based on the data
7 compiled under paragraph (2) and such other information
8 as may be available would most effectively reduce the
9 number of aliens who arrive from abroad by air at points
10 of entry within the United States without valid docu-
11 mentation. Such preinspection stations shall be in addition
12 to those established prior to or pursuant to paragraph (1).

13 “(4) Prior to the establishment of a preinspection
14 station the Attorney General, in consultation with the Sec-
15 retary of State, shall ensure that—

16 “(A) employees of the United States stationed
17 at the preinspection station and their accompanying
18 family members will receive appropriate protection,

19 “(B) such employees and their families will not
20 be subject to unreasonable risks to their welfare and
21 safety, and

22 “(C) the country in which the preinspection sta-
23 tion is to be established maintains practices and pro-
24 cedures with respect to asylum seekers and refugees
25 in accordance with the Convention Relating to the

1 Status of Refugees (done at Geneva, July 28, 1951),
 2 or the Protocol Relating to the Status of Refugees
 3 (done at New York, January 31, 1967).

4 “(b) ESTABLISHMENT OF CARRIER CONSULTANT
 5 PROGRAM.—The Attorney General shall assign additional
 6 immigration officers to assist air carriers in the detection
 7 of fraudulent documents at foreign airports which, based
 8 on the records maintained pursuant to subsection (a)(2),
 9 served as a point of departure for a significant number
 10 of arrivals at United States ports of entry without valid
 11 documentation, but where no preinspection station exists.

12 “(c) CLERICAL AMENDMENT.—The table of contents
 13 is amended by inserting after the item relating to section
 14 235 the following new item:

“Sec. 235A. Preinspection at foreign airports.”.

15 **SEC. 702. TRAINING OF AIRLINE PERSONNEL IN DETEC-**
 16 **TION OF FRAUDULENT DOCUMENTS.**

17 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.
 18 1356(h)(2)(A)) is amended—

19 (1) in clause (iv), by inserting “, including
 20 training of, and technical assistance to, commercial
 21 airline personnel on such detection” after “United
 22 States”, and

23 (2) by adding at the end the following:

24 “The Attorney General shall provide for expenditures for
 25 training and assistance described in clause (iv) in an

1 amount, for any fiscal year, not less than 5 percent of
2 the total of the expenses incurred that are described in
3 the previous sentence.”.

4 (b) COMPLIANCE WITH DETECTION REGULA-
5 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by
6 adding at the end the following: “Whenever the Attorney
7 General finds that a commercial airline has failed to com-
8 ply with regulations of the Attorney General relating to
9 requirements of airlines for the detection of fraudulent
10 documents used by passengers traveling to the United
11 States (including the training of personnel in such detec-
12 tion), the Attorney General may suspend the entry of some
13 or all aliens transported to the United States by such air-
14 line.”.

15 (c) EFFECTIVE DATES.—

16 (1) The amendments made by subsection (a)
17 shall apply to expenses incurred during or after fis-
18 cal year 1994.

19 (2) The Attorney General shall first issue, in
20 proposed form, regulations referred to in the second
21 sentence of section 212(f) of the Immigration and
22 Nationality Act, as added by the amendment made
23 by subsection (b), by not later than 90 days after
24 the date of the enactment of this Act.

1 **SEC. 703. PASSPORT AND VISA OFFENSES PENALTIES IM-**
2 **PROVEMENT.**

3 (a) IN GENERAL.—Chapter 75 of title 18, United
4 States Code, is amended—

5 (1) in section 1541, by striking “not more than
6 \$500 or imprisoned not more than one year” and in-
7 serting “under this title or imprisoned not more
8 than 10 years”;

9 (2) in each of sections 1542, 1543, and 1544,
10 by striking “not more than \$2,000 or imprisoned
11 not more than five years” and inserting “under this
12 title or imprisoned not more than 10 years”;

13 (3) in section 1545, by striking “not more than
14 \$2,000 or imprisoned not more than three years”
15 and inserting “under this title or imprisoned not
16 more than 10 years”;

17 (4) in section 1546(a), by striking “five years”
18 and inserting “10 years”;

19 (5) in section 1546(b), by striking “in accord-
20 ance with this title, or imprisoned not more than two
21 years” and inserting “under this title or imprisoned
22 not more than 10 years”; and

23 (6) by adding at the end the following:

1 **“§ 1547. Alternative imprisonment maximum for cer-**
 2 **tain offenses**

3 “Notwithstanding any other provision of this title,
 4 the maximum term of imprisonment that may be imposed
 5 for an offense under this chapter (other than an offense
 6 under section 1545)—

7 “(1) if committed to facilitate a drug traffick-
 8 ing crime (as defined in 929(a) of this title) is 15
 9 years; and

10 “(2) if committed to facilitate an act of inter-
 11 national terrorism (as defined in section 2331 of this
 12 title) is 20 years.”.

13 (b) CLERICAL AMENDMENT.—The table of sections
 14 at the beginning of chapter 75 of title 18, United States
 15 Code, is amended by adding at the end the following new
 16 item:

“1547. Alternative imprisonment maximum for certain offenses.”.

17 (c) ASSET FORFEITURE.—Section 981(a)(1) of title
 18 18, United States Code, is amended by inserting after sub-
 19 paragraph (F) the following:

20 “(G) Any property used in committing an of-
 21 fense under section 1543 or 1546 of this title or for
 22 which the maximum authorized imprisonment is set
 23 by section 1547 of this title.”.

TITLE VIII—ASYLUM

2 SEC. 801. INSPECTION AND EXCLUSION BY IMMIGRATION

3 OFFICERS.

4 (a) IN GENERAL.—Section 235(b) (8 U.S.C.
5 1225(b)) is amended to read as follows:

6 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
7 OFFICERS.—

8 “(1) An immigration officer shall inspect each
9 alien who is seeking entry to the United States.

10 “(2)(A) If the examining immigration officer
11 determines that an alien seeking entry—

12 “(i) does not present the documentation
13 required (if any) to obtain legal entry to the
14 United States; and

15 “(ii) does not indicate either an intention
16 to apply for provisional asylum (under section
17 208) or a fear of persecution,

18 the officer shall order the alien excluded from the
19 United States without further hearing or review.

20 “(B) The examining immigration officer shall
21 refer for immediate inspection at the port of entry
22 by an asylum officer under subparagraph (C) any
23 alien who (i) does not present the documentation re-
24 quired (if any) to obtain legal entry to the United
25 States, and (ii) has indicated an intention to apply

1 for provisional asylum or a fear of persecution. Such
2 an alien shall not be considered to have been in-
3 spected and admitted for purposes of this Act.

4 “(C)(i) If an asylum officer determines that an
5 alien has a credible fear of persecution, the alien
6 shall be entitled to apply for provisional asylum
7 under section 208.

8 “(ii)(I) Subject to subclause (II), if an asylum
9 officer determines that an alien does not have a
10 credible fear of persecution the officer shall order
11 the alien excluded from the United States without
12 further hearing or review.

13 “(II) The Attorney General shall promulgate
14 regulations to provide for the immediate review by
15 another asylum officer at the port of entry of a deci-
16 sion under subclause (I).

17 “(iii) For the purposes of this subparagraph,
18 the term ‘credible fear of persecution’ means (I) that
19 it is more probable than not that the statements
20 made by the alien in support of his or her claim are
21 true, and (II) that there is a significant possibility,
22 in light of such statements and of such other facts
23 as are known to the officer that the alien could es-
24 tablish eligibility for provisional asylum under sec-
25 tion 208.

1 “(iv) Notwithstanding any other provision of
2 law, no court shall have jurisdiction to review, except
3 by petition for habeas corpus, any determination
4 made with respect to an alien found excludable pur-
5 suant to this paragraph. In any such case, review by
6 habeas corpus shall be limited to examination of
7 whether the petitioner (I) is an alien, and (II) was
8 ordered excluded from the United States pursuant to
9 this paragraph.

10 “(v) Notwithstanding any other provision of
11 law, no court shall have jurisdiction (I) to review the
12 procedures established by the Attorney General for
13 the determination of exclusion pursuant to this para-
14 graph, or (II) to enter declaratory or injunctive re-
15 lief with respect to the implementation of this para-
16 graph. Regardless of the nature of the suit or claim,
17 no court shall have jurisdiction except by habeas cor-
18 pus petition as provided in clause (iv) to consider
19 the validity of any adjudication or determination
20 under this paragraph or to provide declaratory or in-
21 junctive relief with respect to the exclusion of any
22 alien pursuant to this paragraph.

23 “(vi) In any action brought for the assessment
24 of penalties for improper entry or re-entry of an
25 alien under section 275 or 276, no court shall have

1 jurisdiction to hear claims collaterally attacking the
2 validity of orders of exclusion or deportation entered
3 under sections 235, 236, and 242.

4 “(3)(A) Except as provided in subparagraph
5 (B), if the examining immigration officer determines
6 that an alien seeking entry is not clearly and beyond
7 a doubt entitled to enter, the alien shall be detained
8 for a hearing before a special inquiry officer.

9 “(B) The provisions of subparagraph (A) shall
10 not apply—

11 “(i) to an alien crewman,

12 “(ii) to an alien described in paragraph
13 (2)(A) or 2(B), or

14 “(iii) if the conditions described in section
15 273(d) exist.

16 “(4) The decision of the examining immigration
17 officer, if favorable to the admission of any alien,
18 shall be subject to challenge by any other immigra-
19 tion officer and such challenge shall operate to take
20 the alien, whose privilege to enter is so challenged,
21 before a special inquiry officer for a hearing on ex-
22 clusion of the alien.

23 “(5) An alien has not entered the United States
24 for purposes of this Act unless and until such alien

1 has been inspected and admitted by an immigration
2 officer pursuant to this subsection.

3 (b) CONFORMING AMENDMENTS.—Section 237(a) (8
4 U.S.C. 1227(a)) is amended—

5 (1) in the second sentence of paragraph (1), by
6 striking “Deportation” and inserting “Subject to
7 section 235(b)(2), deportation”; and

8 (2) in the first sentence of paragraph (2), by
9 striking “If” and inserting “Subject to section
10 235(b)(2), if”.

11 **SEC. 802. ASYLUM.**

12 (a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is
13 amended to read as follows:

14 **“SEC. 208. ASYLUM.—**

15 (a) PROVISIONAL ASYLUM.—

16 “(1) RIGHT TO APPLY.—The Attorney General
17 shall establish a procedure for an alien physically
18 present in the United States or at a land border or
19 port of entry, irrespective of such alien’s status, to
20 apply for provisional asylum in accordance with this
21 section.

22 “(2) CONDITIONS FOR GRANTING.—

23 “(A) MANDATORY CASES.—The Attorney
24 General shall grant provisional asylum to an
25 alien if the alien applies for provisional asylum

1 in accordance with the requirements of this sec-
2 tion and establishes that it is more likely than
3 not that in the alien's country of nationality
4 (or, in the case of a person having no national-
5 ity, the country in which such alien last habit-
6 ually resided) such alien's life or freedom would
7 be threatened on account of race, religion, na-
8 tionality, membership in a particular social
9 group, or political opinion.

10 “(B) DISCRETIONARY CASES.—The Attor-
11 ney General may grant provisional asylum to an
12 alien if the alien applies for provisional asylum
13 in accordance with the requirements of this sec-
14 tion and establishes that the alien is a refugee
15 within the meaning of section 101(a)(42).

16 “(C) EXCEPTIONS.—(i) Subparagraphs
17 (A) and (B) shall not apply to an alien if the
18 Attorney General determines that—

19 “(I) the alien ordered, incited, as-
20 sisted, or otherwise participated in the per-
21 secution of any person on account of race,
22 religion, nationality, membership in a par-
23 ticular social group, or political opinion;

24 “(II) the alien, having been convicted
25 by a final judgment of a particularly seri-

1 ous crime, constitutes a danger to the com-
2 munity of the United States;

3 “(III) there are serious reasons for
4 believing that the alien has committed a
5 serious nonpolitical crime outside the
6 United States prior to the arrival of the
7 alien in the United States;

8 “(IV) there are reasonable grounds
9 for regarding the alien as a danger to the
10 security of the United States; or

11 “(V) a country willing to accept the
12 alien has been identified (other than the
13 country described in subparagraph (A)) to
14 which the alien can be deported or re-
15 turned and the alien does not establish
16 that it is more likely than not that the
17 alien’s life or freedom would be threatened
18 in such country on account of race, reli-
19 gion, nationality, membership in a particu-
20 lar social group, or political opinion.

21 “(ii)(I) For purposes of clause (i)(II), an
22 alien who has been convicted of an aggravated
23 felony shall be considered to have committed a
24 particularly serious crime.

1 “(II) The Attorney General shall promul-
2 gate regulations that specify additional crimes
3 that will be considered to be a crime described
4 in clause (i)(II) or (i)(III).

5 “(III) The Attorney General shall promul-
6 gate regulations establishing such additional
7 limitations and conditions as the Attorney Gen-
8 eral considers appropriate under which an alien
9 shall be ineligible to apply for provisional asy-
10 lum under subparagraph (B).

11 “(3) PROVISIONAL ASYLUM STATUS.—In the
12 case of any alien granted provisional asylum under
13 paragraph (2)(A), the Attorney General, in accord-
14 ance with this section—

15 “(A) shall not deport or return the alien to
16 the country described under paragraph (2)(A);

17 “(B) shall authorize the alien to engage in
18 employment in the United States and provide
19 the alien with an ‘employment authorized’ en-
20 dorsement or other appropriate work permit;
21 and

22 “(C) may allow the alien to travel abroad
23 with the prior consent of the Attorney General.

24 “(4) TERMINATION.—Provisional asylum grant-
25 ed under paragraph (2) may be terminated if the At-

1 torney General, pursuant to such regulations as the
2 Attorney General may prescribe, determines that—

3 “(A) the alien no longer meets the condi-
4 tions described in paragraph (2) owing to a
5 change in circumstances in the alien’s country
6 of nationality or, in the case of an alien having
7 no nationality, in the country in which the alien
8 last habitually resided;

9 “(B) the alien meets a condition described
10 in paragraph (2)(C); or

11 “(C) a country willing to accept the alien
12 has been identified (other than the country de-
13 scribed in paragraph (2)) to which the alien can
14 be deported or returned and the alien cannot
15 establish that it is more likely than not that the
16 alien’s life or freedom would be threatened in
17 such country on account of race, religion, na-
18 tionality, membership in a particular social
19 group, or political opinion.

20 “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In
21 the case of an alien described in paragraph
22 (2)(C)(i)(V) or paragraph (4)(C), the alien’s depor-
23 tation or return shall be directed by the Attorney
24 General in the sole discretion of the Attorney Gen-
25 eral, to any country which is willing to accept the

1 alien into its territory (other than the country de-
2 scribed in paragraph (2)(A)).

3 “(b) PROVISIONAL ASYLUM APPLICATIONS.—

4 “(1) IN GENERAL.—

5 “(A) DEADLINE.—Subject to subpara-
6 graph (B), an alien’s application for provisional
7 asylum shall not be considered under this sec-
8 tion unless—

9 “(i) the alien has filed, not later than
10 30 days after entering or coming to the
11 United States, notice of intention to file
12 such an application, and

13 “(ii) such application is actually filed
14 not later than 60 days after entering or
15 coming to the United States.

16 “(B) EXCEPTION.—An application for pro-
17 visional asylum may be considered, not with-
18 standing that the requirements of subparagraph
19 (A) have not been met, only if the alien dem-
20 onstrates by clear and convincing evidence
21 changed circumstances in the alien’s country of
22 nationality (or in the case of an alien with no
23 nationality, in the country where the alien last
24 habitually resided) affecting eligibility for provi-
25 sional asylum.

1 “(2) REQUIREMENTS.—An application for pro-
2 visional asylum shall not be considered unless the
3 alien submits to the taking of fingerprints and a
4 photograph in a manner determined by the Attorney
5 General.

6 “(3) PREVIOUS DENIAL OF ASYLUM.—An appli-
7 cation for provisional asylum shall not be considered
8 if the alien has been denied asylum by a country in
9 which the alien had access to a full and fair proce-
10 dure for determining his or her asylum claim in ac-
11 cordance with a bilateral or multilateral agreement
12 between that country and the United States.

13 “(4) FEES.—In the discretion of the Attorney
14 General, the Attorney General may impose reason-
15 able fees for the consideration of an application for
16 provisional asylum, for employment authorization
17 under this section, and for adjustment of status
18 under section 209(b). The Attorney General is au-
19 thorized to provide for the assessment and payment
20 of any such fee over a period of time or by install-
21 ments.

22 “(5) EMPLOYMENT.—An applicant for provi-
23 sional asylum is not entitled to engage in employ-
24 ment in the United States. The Attorney General
25 may authorize an alien who has filed an application

1 for provisional asylum to engage in employment in
2 the United States, in the discretion of the Attorney
3 General.

4 “(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS
5 APPLICATIONS.—At the time of filing a notice of in-
6 tention to apply for provisional asylum, the alien
7 shall be advised of the consequences, under sub-
8 section (e), of filing a frivolous application for provi-
9 sional asylum.

10 “(c) SANCTIONS FOR FAILURE TO APPEAR.—

11 “(1) Subject to paragraph (2), the application
12 for provisional asylum of an alien who does not ap-
13 pear for a hearing on such application shall be sum-
14 marily dismissed unless the alien can show excep-
15 tional circumstances (as defined in section
16 242B(f)(2)) as determined by an asylum officer or
17 immigration judge.

18 “(2) Paragraph (1) shall not apply if written
19 and oral notice were not provided to the alien of the
20 time and place at which the asylum hearing was to
21 be held, and in the case of any change or postpone-
22 ment in such time or place, written and oral notice
23 were provided to the alien of the new time or place
24 of the hearing.

25 “(d) ASYLUM.—

1 “(1) ADJUSTMENT OF STATUS.—Under such
2 regulations as the Attorney General may prescribe,
3 the Attorney General shall adjust to the status of an
4 alien granted asylum the status of any alien granted
5 provisional asylum under subsection (a)(2)(A) or
6 (a)(2)(B) who—

7 “(A) applies for such adjustment;

8 “(B) has been physically present in the
9 United States for at least 1 year after being
10 granted provisional asylum;

11 “(C) continues to be eligible for provisional
12 asylum under this section; and

13 “(D) is admissible under this Act at the
14 time of examination for adjustment of status
15 under this subsection.

16 “(2) TREATMENT OF SPOUSE AND CHIL-
17 DREN.—A spouse or child (as defined in section
18 101(b) (A), (B), (C), (D), or (E)) of an alien whose
19 status is adjusted to that of an alien granted asylum
20 under paragraph (a)(2) may be granted the same
21 status as the alien if accompanying, or following to
22 join, such alien.

23 “(3) APPLICATION FEES.—The Attorney Gen-
24 eral may impose a reasonable fee for the filing of an
25 application for asylum under this subsection.

1 “(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
2 OLOUS APPLICATIONS.—

3 “(1) IN GENERAL.—If the Attorney General de-
4 termines that an alien has made a frivolous applica-
5 tion for provisional asylum under this section and
6 the alien has received the notice under subsection
7 (b)(5), the alien shall be permanently ineligible for
8 any benefits under this Act, effective as of the date
9 of a final determination on such application.

10 “(2) TREATMENT OF MATERIAL MISREPRESENT-
11 TATIONS.—For purposes of this subsection, an appli-
12 cation considered to be ‘frivolous’ includes, but is
13 not limited to, an application which contains a will-
14 ful misrepresentation or concealment of a material
15 fact.”.

16 (b) CLERICAL AMENDMENT.—The item in the table
17 of contents relating to section 208 is amended to read as
18 follows:

“Sec. 208. Asylum.”.

19 **SEC. 803. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM**
20 **HEARING; JUDICIAL REVIEW.**

21 (a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM
22 HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is
23 amended—

24 (1) in the heading, by striking “ASYLUM” and
25 inserting “PROVISIONAL ASYLUM”;

1 (2) by striking “asylum” each place it appears
2 and inserting “provisional asylum”; and

3 (3) in subparagraph (A), by striking all after
4 clause (iii) and inserting “shall not be eligible for
5 any benefits under this Act.”.

6 (b) JUDICIAL REVIEW.—Section 106 (8 U.S.C.
7 1105a) is amended by adding at the end the following sub-
8 section:

9 “(d) The procedure prescribed by, and all the provi-
10 sions of chapter 158 of title 28, United States Code, shall
11 apply to, and shall be the sole and exclusive procedure for,
12 the judicial review of all final orders granting or denying
13 provisional asylum, except that—

14 “(1) a petition for review may be filed not later
15 than 90 days after the date of the issuance of the
16 final order granting or denying provisional asylum;

17 “(2) the venue of any petition for review under
18 this subsection shall be in the judicial circuit in
19 which the administrative proceedings were conducted
20 in whole or in part, or in the judicial circuit wherein
21 is the residence, as defined in this Act, of the peti-
22 tioner, but not in more than one circuit; and

23 “(3) notwithstanding any other provision of
24 law, a determination granting or denying provisional
25 asylum based on changed circumstances pursuant to

1 section 208(b)(1)(A)(ii) shall be in the sole discre-
2 tion of the officer conducting the administrative pro-
3 ceeding.”.

4 **SEC. 804. CONFORMING AMENDMENTS.**

5 (a) LIMITATION ON DEPORTATION.—Section 243 (8
6 U.S.C. 1253) is amended by striking subsection (h).

7 (b) ADJUSTMENT OF STATUS.—Section 209(b) (8
8 U.S.C. 1159(b)) is amended—

9 (1) in paragraph (2) by striking “one year” and
10 inserting “2 years”; and

11 (2) by amending paragraph (3) to read as
12 follows:

13 “(3) continues to be eligible for provisional asy-
14 lum under section 208,”.

15 (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-
16 TECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C.
17 1254a(c)(2)(B)(ii)) is amended by striking “section
18 243(h)(2)” and inserting “section 208(a)(2)(C)”.

19 (d) ELIGIBILITY FOR NATURALIZATION.—Section
20 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking
21 “subparagraphs (A) through (D) of paragraph 243(h)(2)”
22 and inserting “section 208(a)(2)(C).”.

23 (e) FAMILY UNITY.—Section 301(e) of the Immigra-
24 tion Act of 1990 (Public Law 101–649) is amended by

1 striking “section 243(h)(2)” and inserting “section
2 208(a)(2)(C).”.

3 **SEC. 805. EFFECTIVE DATES.**

4 (a) IN GENERAL.—Except as otherwise provided, the
5 amendments made by this title shall take effect on the
6 date of the enactment of this Act.

7 (b) EXCEPTIONS.—

8 (1) The amendments made by this title shall
9 not apply to applications for asylum or withholding
10 of deportation made before the first day of the first
11 month that begins more than 180 days after the
12 date of the enactment of this Act and no application
13 for provisional asylum under section 208 of the Im-
14 migration and Nationality Act (as amended by sec-
15 tion 801 of this title) shall be considered before such
16 first day.

17 (2) In applying section 208(b)(1)(A) of the Im-
18 migration and Nationality Act (as amended by this
19 title) in the case of an alien who has entered or
20 came to the United States before the first day de-
21 scribed in paragraph (1), notwithstanding the dead-
22 lines specified in such section—

23 (A) the deadline for the filing of a notice
24 of intention to file an application for provisional
25 asylum is 30 days after such first day, and

1 (B) the deadline for the filing of the appli-
2 cation for provisional asylum is 30 days after
3 the date of filing such notice.

4 (3) The amendments made by section 803(b)
5 (relating to adjustment of status) shall not apply to
6 aliens granted asylum under section 208 of the Im-
7 migration and Nationality Act, as in effect before
8 the date of the enactment of this Act.

9 **TITLE IX—FUNDING**

10 **SEC. 901. REDUCTION IN OVERHEAD COSTS INCURRED IN**
11 **FEDERALLY SPONSORED RESEARCH.**

12 (a) LIMITATION.—Notwithstanding any other law, on
13 and after the date of the enactment of this Act, each head
14 of a Federal agency making a grant to, or entering into
15 a contract with, an institution of higher education for re-
16 search and development, shall—

17 (1) reduce the overhead payment rate used to
18 pay for indirect costs related to such research and
19 development to a rate not to exceed 50 percent of
20 the modified total direct costs that are incurred by
21 such institution for such research and development;
22 and

23 (2) return the amount saved as a result of
24 paragraph (1) to the general fund of the Treasury.

1 (b) CBO SCORING.—The Congressional Budget Of-
2 fice estimates that the reduction in overhead payments for
3 federally funded university research required by this sec-
4 tion will produce savings of \$1,240,000,000 over the 5-
5 year period beginning October 1, 1994, and ending Sep-
6 tember 30, 1999.

7 (c) DEFINITIONS.—For the purpose of this section—

8 (1) the term “indirect costs” means administra-
9 tive costs and the costs of library and student serv-
10 ices, building and equipment, and operations and
11 maintenance;

12 (2) the term “institution of higher education”
13 has the meaning stated in section 1201(a) of the
14 Higher Education Act of 1965 (20 U.S.C. 1141(a));

15 (3) the term “Federal agency” means a depart-
16 ment, agency, or instrumentality of the Federal Gov-
17 ernment (including an executive agency (as defined
18 in section 105 of title 5, United States Code)); and

19 (4) the term “modified total direct costs”
20 means the costs of—

21 (A) salaries and wages;

22 (B) fringe benefits;

23 (C) materials, supplies, services and travel;

24 and

- 1 (D) awarding a subgrant to, or entering
2 into a subcontract for, not more than \$25,000.

○

S 2105 IS—2

S 2105 IS—3

S 2105 IS—4

S 2105 IS—5